

**Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements**

**Department of the Treasury
P.O. Box 2508 – EP/EO
Cincinnati, OH 45201**

Date: DEC 10 2004

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State Government Leadership Foundation, Inc.
c/o Laura Kalick
Arent Fox
1050 Connecticut Ave., NW
Washington, DC 20036-5339

Employer Identification Number:
20-0505849

Person to Contact – I.D. Number:
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Legend:

A= Timothy J. Barnes
B= Dick Ackerman
C= Bill Howell
D= Dean Skelos
M= State Government Leadership Foundation, Inc.
N= Republican Party
O= Republican
P= Republican State Legislative Committee, Inc.
Q= District of Columbia
R= December 17, 2003
S= July 16, 2004

Dear Madam:

We have considered your (hereinafter 'M's) application for recognition of exemption from Federal income tax under the provisions of section 501(c) (4) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that M does not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether M qualifies for exemption under other subsections of section 501(c) of the Code. However, we have concluded that M does not qualify under another subsection.

As M has not established exemption from Federal income tax, it will be necessary for M to file an annual income tax return on Form 1120 since it is a corporation.

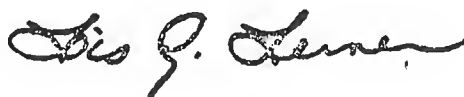
M has the right to protest this proposed determination if it believes it is incorrect. To protest, M should submit a written appeal giving the facts, law and other information to support its position as explained in the enclosed Publication 892, "Exempt Organizations Appeal

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Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of M's principal officers. M may request a hearing with a member of the office of the Regional Director of Appeals when it files its appeal. If a hearing is requested, M will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if M requests, at any mutually convenient District Office. If M is to be represented by someone who is not one of its principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from M within the time specified, this will become our final determination.

Sincerely,

A handwritten signature in dark ink, appearing to read "Chris J. Lerner". The signature is fluid and cursive, with the first name "Chris" and last name "Lerner" clearly distinguishable.

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Enclosures: 4

cc: Laura Kalick

Enclosure 1

Facts:

The information submitted indicates M was incorporated under the non-profit corporation laws of Q on R for the promotion of social welfare to:

- Assist current future and state legislators, state attorneys general and other state officeholders, as appropriate, in the United States by promoting public awareness of the roles these individuals play in shaping the country;
- Fund research, polling and seminars regarding the important issues facing states officials and other state office holders throughout the nation;
- Sponsor events promoting excellence in state government; and
- Pursue any other purposes, which a nonprofit corporation organized in Q and described in section 501(c) (4) of the code is legally entitled to pursue.

M's application states it devotes resources to forums, conferences and other means of communication and dialogue among state leaders. M provides education about the roles that state elected officials play in shaping legislation, enforcing the law, and applying the laws in state courts. M will conduct research studies, including public opinion polls, to determine the impact of the positions taken by elected state officials on the general public. The results of the polls will be discussed at the seminars and disseminated to the public.

M holds itself as being a tax-exempt organization under Section 501(c) (4) of the Code, dedicated to educating state officials on a wide range of public policy issues. M devotes resources to forums, conferences and other means of communication and dialogue among state leaders. M states: "Given the breadth and depth of policy issues faced by state officials today, there has never been a greater need for an organization that provides educational materials and experiences for these influential state leaders."

M exists through the generosity of its private sector donors. Individuals, organizations and companies sharing public policy concerns on a state level find M to be an effective organization to foster a dialogue on these issues. M serves as the issue education organization that provides support to state and local office holders. Private sector donors often utilize the organization to promote, raise and discuss policy issues of concerns to them or their members.

Page 3 of M's Form 1024, item 7, indicates it does not have members, however, an enclosure in the application states the following: "Membership is available at several contribution levels. There is no limit on the type or size of contributions, and the Internal Revenue Service does not require contributors to be disclosed publicly."

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In support of its stated purpose, M submitted documentation of its agenda for its meetings and briefings to educate public officials, M's members, business leaders and members of political organizations. These events were attended by M's members (who may or may not also be members of P, a related political organization exempt under section 527 of the Code), issue presenters, special guests and numerous state elected officials. M's primary legal project to date is an amicus brief to the Supreme Court of the United States.

M further states in its letter dated S:

The activities of (M) are purely nonpartisan and (M) itself does not engage in any political or partisan activities. Furthermore, there is no private benefit to the N as M has no affiliation with such party. Although M has a connected political action committee ('P') whose name contains the word 'O', that organization is legally independent of the (N) and any support to (P) is completely in keeping with the Internal Revenue Code and related Income Tax Regulations. There is no partisan activity conducted at any of (M's) sponsored event. There is no publication or distribution of voter guides or voting records and no candidates are linked to the issues discussed. The forums are not intended to influence voters to consider particular issues when casting their ballot but rather, are held to discuss issues that are important to the public.

M shares space and employees with P. M's members, presenters and lecturers are elected officials (Representatives and Senators) of the N.

M's income is derived from contributions and conference fees.

Law:

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 6110(k)(3) of the Code states a written determination may not be used or cited as precedent.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that the promotion of social welfare does not include the direct or indirect participation or intervention political campaigns on behalf of or in opposition to any candidate for public office.

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Rev. Rul. 60-193, 1960-1 C.B. 195, held that an organization created to encourage greater participation in governmental and political affairs qualifies for recognition of exemption under section 501(c) (4) of the Code. Activities of the organization include seminars and workshops held on campuses of colleges and universities. The subject matter of these seminars related to the American political system. All lecturers, including academic political scientists and political leaders from the local and national levels, were required to maintain certain technical standards and were not allowed to advocate for any particular political group. Seminars and workshops were moderated by permanent staff personnel of the organization in order to prevent them from becoming partisan in character.

Rev. Rul. 73-306, 1973-2 C. B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in an apartment complex did not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex is eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, and reasonable rentals. This revenue ruling concludes that this organization was operated to benefit its members and was not primarily engaged in activities that promote the common good and general welfare of the community.

In contrast, Rev. Rul. 80-206, 1980-2 C. B. 185, provides that an organization formed to promote the legal rights of all tenants in a community qualifies for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C. B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Each member paid for the cost of food ordered plus a monthly service charge which defrayed the organization's expenses. The organization was a cooperative enterprise for the economic benefit or convenience of its members. This revenue ruling states that the organization was operated primarily for the benefit of members and not to promote the common good and general welfare of the community.

Rev. Rul 75-286, 1975-2 C. B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residence to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas.

Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residence of the block and those owning property or operating businesses there.

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This revenue ruling concludes that the organization did not qualify for exemption under section 501(c) (3) of the Code but did qualify for exemption under section 501(c) (4). It states that because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). It states also that while the organization's activities were benefiting its members there was sufficient benefit conferred upon the community as a whole. Although private benefit did exist to the members, the primary benefit was to the community. Therefore, the organization was not operated primarily for the benefit of members but primarily to promote social welfare.

Rev. Rul. 76-456, 1976-2 C.B. 151 held that an organization formed for the purpose of elevating the standards of ethics and morality that prevail in the conduct of campaigns for election to public office at the national, state, and local levels. On a nonpartisan basis the organization collected, collated, and disseminated information concerning general campaign practices through the press, radio, television, mail and public speeches. In addition, the organization furnished "teaching aids" to political science and civic teachers to help stress the need for ethical conduct in political campaigns. Exemption was granted because the activities of the organization were conducted on a nonpartisan basis.

In *American Campaign Academy v. Commissioner*, 92 T.C. 1053 (1989), an organization was formed for charitable and educational purposes. The organization's primary activity was to operate a school. The school trained individuals for careers as political campaign professionals. Prior to the formation of the organization, the National Republican Congressional Committee (NRCC) sponsored programs designed to train candidates and subsequently place campaign professionals in Republican campaigns.

The organization stated it was an outgrowth of the programs operated by the NRCC. NRCC contributed the physical assets, such as furniture and computer hardware, to the organization. Two of the organization's full-time faculty was previously involved in the NRCC's training program. One of the organization's three initial directors was the executive director of the NRCC. The organization did not train candidates or participate in, or intervene in, any political campaign on behalf of any candidate. Neither did the organization engage in any activities tending to influence legislation. Applicants were required to provide the organization with professional references. While applicants were not required to formally declare their political affiliation to attend the school, such affiliation could be deduced from the campaign experiences and political references contained in the applications. Graduates of the school were employed by various Republican organizations. No graduate was known to have any affiliation with any domestic political party other than the Republican Party.

The court concluded that the organization's activities benefited the private interests of Republican entities and candidates more than incidentally. The organization, thus, served a substantial nonexempt purpose. Although the school had a legitimate educational program, the Court held that the school conducted its educational activities with the partisan objective of benefiting the interests of the Republican Party as evidenced by:

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- 1) the composition of the school's board of directors,
- 2) the failure of the school to counterbalance the Republican party focus of its curriculum with comparable studies of the Democratic or other political parties,
- 3) the incorporation of the school by the General Counsel of the National Republican Congressional Committee, an unincorporated association comprised of Republican members of the House of Representatives; and ,
- 4) a lack of showing by the school that its graduates served in Congressional and Senatorial campaigns of candidates from both major political parties in substantial numbers.

In *Commissioner v. Lake Forest, Inc.*, 305 F.2d 814 (4th Cir. 1962), a corporation was organized for the purpose of purchasing a government housing project and converting it to cooperative nonprofit housing for its members. Membership in the corporation was established by the purchase of a corporate share which allowed the purchaser an apartment unit. The court held that the organization was not described in section 501(c) (4) of the Code because the operation was a private self help enterprise with only incidental benefit to the community.

In *Contracting Plumbers Cooperative Restoration Corp. v. United States*, 488 F. 2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually. This system proved to be highly inefficient. The organization was formed as a cooperative in order to restore the city streets. It only repaired cuts made by members. The joint effort of the plumbers reduced their liability and their expenses. While the court found the program to be highly beneficial, it concluded that the organization principally served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

Analysis:

Promoting Social Welfare

In order to qualify for exemption under 501(c) (4) of the Code, an organization must be primarily engaged in activities that promote social welfare. The promotion of social welfare may include activities that educate the public or lobby public officials or both. Exemption is not dependent on the point of view of the educational material or the issue being lobbied. In contrast to lobbying and educational activities, partisan political activity does not promote social welfare as defined in section 501(c) (4) of the Code. Such activity promotes the interests of one political fraction. An organization engaging in such activity is engaged not merely in the clash of ideas, but in a contest for power.

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Based on the information M submitted, it appears that it is a partisan issues-oriented organization. Specifically, M's activities are designed to promote the N. This partisanship is exhibited in the key officers and personnel that founded and operate M. For example, A, is the Chairman, President and Executive Director of M and has been a high-ranking official of various organizations related to N such as its national committee and its national senatorial committee. Most of M's current board of directors are affiliated or identified with the N. Evidence submitted indicates that M's speakers are representatives of the N, which is also supported by M's financial support. The information M disseminates to the attendees reflect a political partisanship toward the N.

The information M has submitted indicates it is a partisan organization and that its activities are partisan in nature. Although M states: "...membership in (M) is open to any member of the public, regardless of party affiliation" and that "...in fact, there are members of both major political parties who belong to (M)," the primary attendants are members of the N discussing topics and issues of concern to the N. This fact is supported by M's sponsored meeting agendas.

Unlike the organization described in Rev. Rul. 60-193 and 76-456 *supra*, which encouraged participation in the political process by explaining the process on a nonpartisan basis, M was created for the partisan objective of promoting the platform of and politics associated with the N. Based upon the above facts and circumstances, we conclude that because of M's partisan nature, M is not engaged in activities that promote the social welfare.

Operating Exclusively to Benefit the Whole Community.

An organization exempt under section 501(c) (4) of the Code must be promoting the common good and general welfare of the whole community. Benefiting select individuals or groups, instead of the community as a whole, are contrary to this requirement (see Rev. Rul 75-286 *supra*). For example, the tenants' organization described in Rev. Rul. 73-306 is distinguishable from the one described in Rev. Rul. 80-206 in that its activities are directed primarily toward benefiting its member-tenants rather than all tenants in the community. (See e.g., Rev. Rul. 73-349, *Lake Forest, Inc.*; and *Contracting Plumbers Cooperatives*.) Therefore a sufficient amount of benefit to select individuals will preclude an organization that would otherwise qualify for exemption from being described in section 501(c) (4).

This private benefit standard is also demonstrated in the *American Campaign Academy*, *supra*, and is relevant here. In that case, the court held that an organization created to serve a particular faction in the political spectrum was not exempt under section 501(c) (3) of the Code because its activities benefited the private interest of that particular faction. The private benefit standard used in *American Campaign Academy* is similar under section 501(c) (4). The difference is in the weighing of the private benefits (i.e. the amount of private benefits), not the standard. (See e.g. Rev. Rul. 75-286 *supra*.)

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The information M submitted clearly indicates that it, like the organization described in *American Campaign Academy*, is operated primarily for the benefit of a select group. This select group consists of the N and politicians, attorney generals, etc. affiliated with the N. Political identification with the N was strengthened when individuals participated in M's forums and conferences, such as M's sponsored political breakfast and restricted cloak room/leadership board receptions.

This conclusion is supported by M's orientation toward the N, which is demonstrated in the history, creation, control and operation of M's organization. As illustrated in the information M disseminates, the word "O" is used throughout its publications. The speakers or participants that M invites to its forums are identified or affiliated with the N. For example, State Senator B, State Delegate C, and State Senator D are current N office holders. M has not indicated whether individuals affiliated with other political parties were invited to be speakers at its forums. The control of M resides with individuals who are members of or affiliated with the N.

Although M cites several General Counsel Memoranda (GCM) in support of its position that it is exempt under section 501(c)(4) of the Code, per section 6110(k)(3) of the Code, said GCMs cannot be cited as precedent.

CONCLUSION

In summary, we conclude that M is not operated primarily to promote social welfare because it is a partisan issues-oriented organization and its activities are partisan in nature. In addition, we conclude that M's activities also substantially benefit the N and politicians affiliated with it. Accordingly, M does not qualify for recognition of exemption under section 501(c)(4) of the Code.